

Local Government Committee 1

Amendment No. 1 to HB1367

**Wirgau
Signature of Sponsor**

AMEND Senate Bill No. 1363

House Bill No. 1367*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 67-5-501(8)(B), is amended by adding the following language as a new subdivision:

Incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 and telephone cooperatives organized pursuant to § 65-29-102;

SECTION 2. Tennessee Code Annotated, Section 67-5-502, is amended by deleting subsections (b) and (c) and substituting instead the following:

(b) The property of all street railroad, gas, electric light companies, incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109, and telephone cooperatives organized pursuant to § 65-29-102, and all public utility companies, including their franchises used within any town, city, or taxing district where the office of the company is located outside of such incorporated city or town or taxing district, but with the main property within the city, shall be taxed in the city, town, or taxing district as if the office was situated within the city limits, and the property, including franchises of the corporations and joint stock companies that lie wholly or mainly within any incorporated city, taxing district, or town, or whose chief business is within any incorporated city, taxing district, or town, shall be assessed for taxation in such city, taxing district, or town; provided, that all real property and tangible personal property shall be taxed in the district where situated; and provided further, that public utility

Local Government Committee 1

Amendment No. 1 to HB1367

**Wirgau
Signature of Sponsor**

AMEND Senate Bill No. 1363

House Bill No. 1367*

property of every kind, whether real property, tangible personal property, or intangible personal property, shall all be assessed for taxes at fifty-five percent (55%) of its value and that all property of incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 and property of telephone cooperatives organized pursuant to § 65-29-102 shall be assessed at the rate applicable to commercial and industrial property of the same type.

(c) Leased personal property used by a public utility company, incumbent local exchange telephone company, or competitive local exchange telephone company that elects market regulation pursuant to § 65-5-109, or telephone cooperative organized pursuant to § 65-29-102, shall be assessed to the public utility company, telephone company, or cooperative, unless such property is the subject of a lawful agreement between the lessee and a local government for payments in lieu of taxes. Other leased personal property shall be classified according to the lessee's use and assessed to the lessee, unless such property is the subject of a lawful agreement between the lessee and a local government for payments in lieu of taxes. Personal property that is leased to and used by any religious, charitable, scientific, or nonprofit educational institution purely and exclusively for one (1) or more of the purposes for which the institution was previously determined to be exempt under § 67-5-212 shall not be deemed to be used in a business or profession, and shall not be classified as industrial or commercial property for property tax purposes.

SECTION 3. Tennessee Code Annotated, Section 67-5-801, is amended by adding the following language as a new subsection:

Property of incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 and telephone cooperatives organized pursuant to § 65-29-102 shall be assessed as industrial and commercial property.

SECTION 4. Tennessee Code Annotated, Section 67-5-901, is amended by adding the following language as a new subsection:

Property of incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 and telephone cooperatives organized pursuant to § 65-29-102 shall be assessed as industrial and commercial property.

SECTION 5. Tennessee Code Annotated, Section 67-5-1301(a), is amended by adding the following language as a new subdivision:

Incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 and telephone cooperatives organized pursuant to § 65-29-102;

SECTION 6. Tennessee Code Annotated, Section 67-5-1302, is amended by deleting the second sentence of subdivision (a)(1) and substituting instead the following:

Such operating property which is used predominantly to provide cellular telephone service, radio common carrier service, or long distance telephone service, or which is used by incumbent local exchange telephone companies or competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 or by telephone cooperatives organized pursuant to § 65-29-102, shall be assessed at the rate applicable to commercial and industrial property of the same type.

SECTION 7. Tennessee Code Annotated, Section 67-5-1302, is further amended by deleting subdivision (b)(1) and substituting instead the following:

The assessments of public utility property or property of incumbent local exchange telephone companies or competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 or telephone cooperatives organized pursuant to § 65-29-102, as set by the comptroller of the treasury in accordance with subsection (a), shall be adjusted, where necessary, on the basis of appropriate ratios, as are determined by the board of equalization for purposes of equalizing the values of such property to the prevailing level of value of property in each jurisdiction; provided, that no equalization factor for purposes of this section may exceed a factor of one (1.000).

SECTION 8. Tennessee Code Annotated, Section 67-5-1329, is amended by deleting subsection (b) and substituting instead the following:

(b) If any railroad, public utility, incumbent local exchange telephone company, or competitive local exchange telephone company that elects market regulation pursuant to § 65-5-109, or telephone cooperative organized pursuant to § 65-29-102, has been or is hereafter aggrieved at the assessment so fixed and certified by the board, such taxpayer shall be required to pay the taxes due and owing the state, counties, and municipalities, upon the full value of the assessment, under protest. Upon termination of any proceedings that may be instituted in any of the courts of this state or in any of the courts of the United States by such taxpayer to review such assessment, the state, counties and municipalities, and any school district, road district, or other taxing district to which such taxes have been paid, shall refund in cash and with interest, such part of the taxes so paid to it as may be adjudged to be excessive or illegal by any final decree or order entered in any such proceeding, or in default of such refund, such taxpayer is authorized to take credit for the amount of such illegal or excessive tax, with interest, against any tax thereafter becoming due from and payable by such taxpayer, to the

state, or any county, municipality, road district, school district, or any other taxing district authorized by law to levy taxes.

SECTION 9. Tennessee Code Annotated, Section 67-5-1601, is amended by deleting subsection (h) and substituting instead the following:

(h)

(1) There shall also be an updating of the localized and nonoperating real property of public utilities, incumbent local exchange telephone companies, and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109, and telephone cooperatives organized pursuant to § 65-29-102, in each county, and such must be accomplished in the same year as other locally assessed properties.

(2) All assessing and updating of operating properties of public utility companies, incumbent local exchange telephone companies, and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109, and telephone cooperatives organized pursuant to § 65-29-102, must be done by the comptroller of the treasury in accordance with part 13 of this chapter.

(3) All expenses for assessing and updating of operating properties of public utilities, incumbent local exchange telephone companies, and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109, and telephone cooperatives organized pursuant to § 65-29-102, must be paid by the comptroller of the treasury.

SECTION 10. Tennessee Code Annotated, Section 67-5-1606, is amended by deleting subsection (c) and substituting instead the following:

(c) The state board of equalization shall each year certify to the comptroller of the treasury appraisal levels, as are determined by the board for each county, to be used

by the commission for purposes of computing the assessments of public utility properties as well as properties of incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 and telephone cooperatives organized pursuant to § 65-29-102.

SECTION 11. Tennessee Code Annotated, Section 67-5-2003, is amended by deleting subsection (i) and substituting instead the following:

(i) Delinquent public utility taxes and taxes owed by incumbent local exchange telephone companies or competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 or telephone cooperatives organized pursuant to § 65-29-102 shall not be immediately collected under this section if the local assessment includes any real property. The trustee or collector shall confirm with the comptroller of the treasury whether such taxpayer's local assessment includes any real property.

SECTION 12. Tennessee Code Annotated, Section 67-5-2801, is amended by deleting subsection (b) and substituting instead the following:

(b) In order to waive the enforcement and collection of taxes, including penalties, interest, or attorney fees and costs, imposed on public utility personal property or personal property of incumbent local exchange telephone companies or competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109 or telephone cooperatives organized pursuant to § 65-29-102, the trustee or collector must first confirm with the comptroller of the treasury that such taxpayer's local assessment only includes personal property and does not include any real property. If such taxpayer is still operating, then no waiver may be requested or approved even if the local assessment only includes personal property and no personal property can be found in the trustee's or the collector's jurisdiction. If such taxpayer has ceased all operations

and the local assessment does not include any real property, then the trustee or the collector may request a waiver in accordance with subdivisions (a)(1)-(3).

SECTION 13. Tennessee Code Annotated, Section 67-6-221, is amended by deleting subsection (b) and substituting instead the following:

(b) The revenue from a rate equal to one-half percent (0.5%) of the tax shall be deposited in the general fund and earmarked for education purposes for kindergarten through grade twelve (K-12) in accordance with § 67-6-103(c)(2). The remainder of the revenue generated from the tax imposed by subsection (a) shall be distributed to municipalities and counties in accordance with subsection (c) for the purpose of reimbursing local governments for the difference in property tax revenue due to changes that subject the property of incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation under § 65-5-109, and telephone cooperatives organized under § 65-29-102, to the same assessment ratio as other communications companies and other businesses. If, in any fiscal year, the revenue exceeds the amount necessary to hold local governments harmless, all other revenue generated from the tax shall be deposited in the state general fund and allocated pursuant to § 67-6-103(a). If, in any fiscal year, the revenue is insufficient to reimburse local governments, a sum sufficient from the state general fund shall be allocated to local governments in the same manner until the difference is fully covered.

(c) The office of state assessed properties in the office of the comptroller of the treasury shall annually calculate the difference in property tax revenue or comparable in lieu of tax payments that result from changing the assessment of property of incumbent local exchange telephone companies and competitive local exchange telephone companies that elect market regulation pursuant to § 65-5-109, and telephone cooperatives organized pursuant to § 65-29-102, from classification as public utility

property to classification as commercial and industrial property for each local jurisdiction levying a property tax. Telecommunications providers that are not centrally assessed shall provide the required information to the office of state assessed properties no later than January 1. These calculations shall be forwarded to the department of revenue annually by January 1 or upon availability. The department shall distribute the revenue generated from the tax imposed under subsection (a), other than the revenue earmarked for education under subsection (b), to local governments based upon their proportionate share of the difference in property tax revenue due to the changes in assessment.

SECTION 14. Tennessee Code Annotated, Section 67-6-222, is amended by adding the following language as a new subsection:

(c) The telecommunications ad valorem tax reduction fund created by this section is discontinued effective June 2, 2017, subject to the following:

(1) On or before June 1, 2017, the comptroller of the treasury shall make all payments that are required by subsection (b). Any moneys remaining in the telecommunications ad valorem tax reduction fund as of June 1, 2017, that are in excess of the amount necessary to make the payments must be deposited into the state general fund and allocated pursuant to § 67-6-103(a); and

(2) No person is entitled to any payment under subdivision (c)(1), unless the payment is claimed on or before May 1, 2017.

SECTION 15. Sections 1 through 12 of this act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to all tax periods beginning on or after January 1, 2017. All remaining sections of this act shall take effect upon becoming a law, the public welfare requiring it.